

ESTTA Tracking number: **ESTTA136090**

Filing date: **04/18/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	LRC Products Ltd.		
Entity	Corporation	Citizenship	United Kingdom
Address	35 New Bridge Street London, EC4V 6BW UNITED KINGDOM		

Attorney information	Nicole K. McLaughlin Duane Morris LLP 30 S. 17th Street Philadelphia, PA 19103 UNITED STATES nkmclaughlin@duanemorris.com Phone:215-979-1191
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Applicant Information

Application No	78932990	Publication date	03/20/2007
Opposition Filing Date	04/18/2007	Opposition Period Ends	04/19/2007
Applicant	Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 089337001 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: massage oils
Class 005. All goods and services in the class are opposed, namely: personal lubricants

Attachments	2in1tingling.pdf (4 pages)(327430 bytes)
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Signature	/NKM/
Name	Nicole K. McLaughlin
Date	04/18/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 78/932990
Filed: July 19, 2006
For the Mark: 2-IN-1 TINGLING
Published in the Official Gazette on March 20, 2007

LRC PRODUCTS LTD.,	:	
Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	
JOHNSON & JOHNSON,	:	
Applicant.	:	
	:	

NOTICE OF OPPOSITION

LRC Products Ltd., a United Kingdom corporation, having an address of 35 New Bridge Street, London, United Kingdom EC4V 6BW, believes that it will be damaged by registration of the mark 2-IN-1 TINGLING, shown in Serial No. 78/932990 as applied to “massage oils” in Class 3 and “personal lubricants” in Class 5, and hereby opposes registration of same.

As grounds for opposition, Opposer alleges that:

1. Upon information and belief, Applicant Johnson & Johnson (hereinafter “Applicant”), is a New Jersey corporation having its principal place of business at One Johnson & Johnson Plaza, New Brunswick, NJ 08933.
2. On July 19, 2006, Applicant filed Application Serial No. 78/932990 (the “Application”) to register, on the Principal Register, the mark 2-IN-1 TINGLING (hereinafter the “Applicant’s Mark”) for “massage oils” and “personal lubricants” (hereinafter collectively, the “Applicant’s Goods”).

3. Upon information and belief, Applicant is a manufacturer of health care products and consumer goods.
4. Applicant's Mark was published for opposition in the *Official Gazette* on March 20, 2007.
5. Opposer is a manufacturer and distributor of healthcare and consumer products.

First Ground for Relief

(Descriptiveness)

6. Opposer repeats and incorporates by reference as if fully stated herein the allegations in paragraphs 1 through and including 5 above.
7. Applicant's Mark is merely descriptive of the goods for which it is intended to be used, that is, the subject of Applicant's Goods, is massage oil plus personal lubricant that can be used for massaging or as a lubricant with a "tingling" sensation, thereby Applicant's Goods are "2-in-1 Tingling."
8. Applicant's mark, and in particular the term "TINGLING," is merely descriptive of the goods, as upon information and belief, Applicant's packaging describes its product as, "gentle tingling sensation"; "this body massage + personal lubricant tingles on contact"; "for gentle tingling sensation, apply the desired amount to intimate areas."
9. Applicant's Mark is in the public domain and is available for use by anyone, including Opposer, as a description for Applicant's Goods.
10. Applicant's Mark is not distinctive and would not be recognized as a trademark by consumers.
11. Upon information and belief, the term "tingling" in Applicant's Mark is used by third parties on a variety of related products, and Applicant's Mark therefore is incapable of distinguishing Applicant's Goods.
12. Upon information and belief, Applicant's use of the mark "2-IN-1 TINGLING" places substantial emphasis on the term TINGLING as a distinct and separate term.
13. Granting the registration sought by Applicant will interfere with Opposer's right to make legitimate descriptive use of the term "tingling" on and in connection with Opposer's sale of personal lubricants, and related goods.

Second Ground for Relief

(Likelihood of Confusion)

14. Opposer repeats and incorporates by reference as if fully stated herein the allegations in paragraphs 1 through and including 13 above.

15. Opposer has been using the marks TINGLING; PLAY TINGLING; PLEASUREMAX TINGLING; and TINGLING PLEASUREMAX (hereinafter collectively the “Opposer’s Mark”) for several years.

16. Opposer has been using the mark TINGLING to identify its personal lubricants and related goods (hereinafter “Opposer’s Goods”) since as early as July 2004.

17. Applicant’s Goods and Opposer’s Goods are identical, or nearly so, and Applicant’s Mark so nearly resembles Opposer’s Mark, causing consumers to be likely to be confused as to the origin of the goods of Applicant and Opposer so as to cause confusion and mistake and lead to deception as to the source of origin of the respective goods.

18. Opposer’s use of Opposer’s Mark predates Applicant’s use or filing date of Applicant’s Mark.

19. Assuming that the term or mark TINGLING is capable of identification of source, then said mark identifies Opposer and not Applicant, and is registrable to Opposer rather than Applicant, based on priority.

20. If Applicant is permitted to use and register Applicant’s Mark 2-IN-1 TINGLING for the goods specified in the Application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the almost identical nature of the respective marks and goods.

21. If Applicant is granted the registration herein opposed, Applicant would therefore obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

WHEREFORE, Opposer believes it will be damaged by registration of the 2-IN-1 TINGLING mark in Application Serial No. 78/932990, and respectfully requests that this opposition be sustained and that the registration sought by Applicant be denied.

Respectfully submitted,
LRC PRODUCTS LTD.

Date: April 18, 2007

By: /NKM/
Nicole McLaughlin
Attorney for Opposer

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